

United States Department of Justice
Office of the United States Trustee
110 N. College Avenue, Suite 300
Tyler, Texas 75702
(903) 590-1450

**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

IN RE:	§	
	§	Case No. 23-42275
	§	
Artisan Masonry, Inc	§	
6959 FM 1565	§	
Royse City, TX 75189	§	
	§	
	§	Chapter: 11
	§	
Debtor	§	

**UNITED STATES TRUSTEE'S MOTION TO DISMISS *WITH PREJUDICE*
OR TO CONVERT TO CHAPTER 7 PURSUANT TO 11 U.S.C. §1112(b) and §105**

PLEASE NOTE THAT THE COURT HAS SET THIS MOTION FOR HEARING:

HEARING: TUESDAY, JULY 23, 2024 AT 1:30 P.M.

U. S. Bankruptcy Court
660 N. Central Expressway, 3rd Floor
Plano, Texas 75074

TO THE HONORABLE BRENDA T. RHOADES, CHIEF UNITED STATES BANKRUPTCY JUDGE

Kevin Epstein, the United States Trustee for Region 6 ("U.S. Trustee") hereby files in the above-numbered and captioned bankruptcy case ("Case") his Motion to Dismiss with Prejudice, or to Convert to Chapter 7, pursuant to 11 U.S.C. §1112(b) and §105 ("Motion") and respectfully states in support thereof:

Jurisdiction and Timeliness

1. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1334, 157(a), and the standing order of reference. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (O). The predicate for the relief requested herein is Bankruptcy Code §1112(b) and §105.

Background

On November 30, 2023 (“Petition Date”), Artisan Masonry, Inc (“Debtor”) initiated this Case by filing a voluntary petition for relief under Chapter 11 of Title 11.

Debtor has filed a Plan which is set for confirmation on August 6, 2024.

Basis of Motion

2. Debtor has failed to file the required Monthly Operating Reports (“MORs”) for February through May of 2024. (Collectively, the “Reports”).

3. The only MORs that Debtor has filed are (1) for 1 day in November 2023 and (2) for the month of December 2023 and (3) for the month of January 2024. The December MOR reflects that Debtor had a net loss of \$284. The January MOR reflects that Debtor had a net loss of over \$26,000.

4. Based on the only MORs on file, it appears that Debtor is losing money, while incurring attorney fees and other administrative expenses. There is no indication that Debtor has the ability to confirm a Plan.

5. By failing to file the Reports, Debtor has failed to meet its obligations. Further, without filing the Reports, there is no indication that Debtor has income with which to fund a Plan.

6. By this Motion, the U.S. Trustee seeks either (1) dismissal with prejudice, or (2) conversion to Chapter 7. 11 U.S.C. §1112(b). 11 U.S.C. §105.

Applicable Law and Argument

7. Section 1112 (b) provides,

. . . absent unusual circumstances specifically identified by the court that establish that the requested conversion or dismissal is not in the best interests of creditors

and the estate, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, if the movant establishes cause.

8. Cause exists to dismiss or convert as Debtor has failed to timely file Reports as required. 11 U.S.C. §1112(b)(4)(F) and (H). 11 U.S.C. §105.

9. Cause exists to dismiss or convert as Debtor is incurring a substantial and continuing loss to or diminution to the estate and there is no likelihood of rehabilitation. 11 U.S.C. §1112(b)(4)(A).

10. The United States Trustee requests the Court to dismiss this Case with prejudice or convert the Case to Chapter 7.

WHEREFORE, the U.S. Trustee respectfully requests that the Court issue an order dismissing the Case with prejudice or converting the Case to Chapter 7. Alternatively, the U.S. Trustee requests that the Court establish deadlines. The United States Trustee requests other further appropriate relief.

Dated: July 9, 2024

Respectfully submitted,

Kevin Epstein

United States Trustee
Region 6

By: /s/ John Vardeman
John Vardeman
Trial Attorney, TBN 20496260
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Tyler, Texas 75702
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was served on the following listed persons through the court's electronic notification system as permitted by Appendix 5005 III E to the Local Rules of the U.S. Bankruptcy Court for the Eastern District of Texas, or by first class United States Mail, postage prepaid, no later than July 10, 2024.

/s/ John Vardeman

John Vardeman

Debtor:

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6959 FM 1565
Royse City, TX 75189

Debtors' Attorney:

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Sub V Trustee

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